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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,400	10/30/2001	David Hardy	NOR/ 1021	3637

7590 04/07/2003

Wood, Herron & Evans, L.L.P.  
Attention: David H. Brinkman  
2700 Carew Tower  
Cincinnati, OH 45202

EXAMINER

TADESSE, YEWEBDAR T

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 04/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/021,400

Applicant(s)

HARDY, DAVID

Examiner

Yewebdar T Tadesse

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-8, drawn to a guide of strands toward dispensing outlets/a liquid dispensing system with a guide member, classified in class 118, subclass 500.
  - II. Claims 9-10, drawn to a method of guiding strands towards dispensing outlets classified in class 427, subclass 208.6.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the method can be performed with an apparatus not provided with a shaft for supporting strand.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with David Brinkman on 03/28/2003 a provisional election was made with traverse to prosecute the invention of I, claims 1-8. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-10 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by ITW Dynatec™ “Elastic Strand Coating System” web page copyright 1998 (see page 1-3). Dynatec™ discloses (see drawings, page 1-2 as labeled by the examiner) a guide mounted on a shaft (A) for guiding strands toward a plurality of dispensing outlets (B) capable of dispensing liquid material (C) onto the strands (D) comprising a plurality of discrete strand guide members (E) capable of being supported in spaced apart relationship on the shaft (A) for guiding the strands toward the plurality of dispensing outlets (B) with a predetermined spacing between the strands (D); or a liquid dispensing system (F) for dispensing liquid onto a plurality of elongated strands (D) comprising: a liquid dispenser having a plurality of dispensing outlets (B) capable of dispensing liquid material (C) onto the strands (D); a shaft (A) connected to the liquid dispenser (B); and

a plurality of strand guide members (E) capable of being supported in spaced apart relationship on the shaft (A) for guiding the strands toward the plurality of dispensing outlets (B) with a predetermined spacing between the strands (D).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over ITW Dynatec<sup>TM</sup> "Elastic Strand Coating System" web page copyright 1998 (see page 1-3) in view of F. L. Broome (US 3,006,382). As to claim 4, Dynatec<sup>TM</sup> discloses (see drawings, page 1-2 as labeled by the examiner) a guide mounted on a shaft (A) for guiding strands toward a plurality of dispensing outlets (B) capable of dispensing liquid material (C) onto the strands (D) comprising a plurality of discrete strand guide members (E) capable of being supported in spaced apart relationship on the shaft (A)

for guiding the strands toward the plurality of dispensing outlets (B) with a predetermined spacing between the strands (D). The drawings of ITW Dynatec<sup>TM</sup> do not show a support sleeve supported on the shaft; however supporting sleeve is well known in the art; for instance Broome discloses supporting sleeves (26) supported on the shaft (25). It would have been obvious at the time the invention was made to include supporting sleeve in ITW Dynatec<sup>TM</sup> to attain rotation of individual guide members (sheaves 16) as taught by Broome (see column 2, lines 4-21). As to claim 5, the drawings of ITW Dynatec<sup>TM</sup> do not tell whether a spacer member positioned intermediate two of the strand guide members. Broome discloses a spacer member (washer 33) mounted between the adjacent strand guide members (sheaves 16). It would have been obvious at the time the invention was made to include a spacer member between two guide members to straddle the abutment of adjacent sleeves as taught by Broome (see column 3, lines 3-6).

As to claim 6, the drawings of ITW Dynatec<sup>TM</sup> disclose an annular disk (part of the strand guide member) having a circumferential groove (G) for engaging one of the pluralities of strands.

10. Claims 2-3, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over ITW Dynatec<sup>TM</sup> "Elastic Strand Coating System" web page copyright 1998 (see page 1-3) as applied to claims 1 and 7 above, and further in view of F. L. Broome (US 3,006,382). As to claims 2 and 8, the drawings of ITW Dynatec<sup>TM</sup> do not tell whether a spacer member positioned intermediate two of the strand guide members. Broome

discloses a spacer member (washer 33) mounted between the adjacent strand guide members (sheaves 16). It would have been obvious at the time the invention was made to include a spacer member between two guide members to straddle the abutment of adjacent sleeves as taught by Broome (see column 3, lines 3-6).


As to claim 3, the drawings of ITW Dynatec <sup>TM</sup> disclose an annular disk (part of the strand guide member) having a circumferential groove (G) for engaging one of the pluralities of strands.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yewebdar T Tadesse whose telephone number is (703) 305-3539. The examiner can normally be reached on Monday-Friday 8:00 AM-4: 30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Yewebdar T T.  
03/31/03

  
RICHARD CRISPINO  
SUPERVISORY PATENT EXAMINER  
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